Supreme Court, U.S.
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No. 04-785

IN THE

Supreme Court of the United States

RICHARD J. FOREST; NANCY FOREST;
ELIZABETH FOREST,

Petitioners,

v.

PAWTUCKET POLICE DEPARTMENT; CITY OF PAWTUCKET, BY AND THROUGH ITS TREASURER, RONALD WUNSCHEL; SCOTT M. FEELEY, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; JOHN CLARKSON, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; GEORGE L. KELLEY, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; DENNIS SMITH, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; WILLIAM MAGILL, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

BRIEF IN OPPOSITION

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REASON FOR DENYING THE PETITION

It is well established that police officers may rely upon the credible complaint of a victim in order to formulate probable cause. *B.C.R. Transport Co., Inc. v. Fontaine*, 727 F.2d 7, 10 (1st Cir. 1984) (although not a per se rule, a probable cause determination predicated on information furnished by the victim is generally considered reliable). There is likewise no constitutional obligation for police officers to conduct additional investigation after they have established probable cause to make an arrest. *Kelley v. Myler*, 149 F.3d 641, 646 (7th Cir. 1998); *Bevier v. Mucal*, 806 F.2d 123, 128 (7th Cir. 1986). The First Circuit properly applied these well-settled rules in affirming the District Court's holding that there was probable cause to support the arrest of petitioner and that the officers were thus entitled to qualified immunity from the instant suit.

By and through this Petition, petitioner claims that the First Circuit misapplied these properly stated rules of law in upholding summary judgment in favor of the respondents. Petitioner specifically challenges the conclusion that the officers had a reasonable basis to conclude that the victim's complaint was credible. Respondents submit that the instant petition should be denied for two (2) reasons. First, the alleged misapplication of properly stated rules of law is not an appropriate basis for a petition for writ of certiorari. Sup. Ct. R. 10. Secondly, the First Circuit nevertheless did not err in finding that the respondents are entitled to qualified immunity from the instant suit.

Consequently, there is no compelling reason to grant the instant Petition for Writ of Certiorari and Respondents respectfully request that this Honorable Court deny the Petition for Writ of Certiorari.

STATEMENT OF THE CASE

Petitioners, Richard J. Forest (hereinafter "petitioner"), his wife and daughter, Nancy and Elizabeth Forest (collectively "petitioners"), filed the instant Complaint against the City of Pawtucket, the Chief of Police, George L. Kelley, III, and police officers John Clarkson, Scott M. Feely, William Magill and Dennis Smith ("respondents") raising claims for violation of petitioners' constitutional rights as well as various state law rights.[1] Petitioners also brought state law claims against Jeffrey Montella and his parents Gail and Charles Montella.[2] Petitioner's Complaint stems from the same incident, namely his alleged unlawful arrest for sexual assault on Jeffrey Montella (hereinafter "Jeffrey"), petitioner's student.

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1. Petitioners' Complaint specifically raised the following claims: Count I, § 1983 claim for violation of Fourth Amendment right; Count II, § 1983 claim for violation of Fifth Amendment right; Count III, claim for intentional infliction of emotional distress; Count IV, claim for negligence; Count V, claim malicious prosecution; Count VI, claim by Nancy and Elizabeth Forest for loss of consortium; and Count VI {sic} claim for punitive damages.

2. The specific claims against the Montella respondents were negligence, defamation, abuse of process, interference with contractual relations, and loss of consortium. Petitioners' Complaint, Counts VIII – XI.

The Respondents filed a Motion for Summary Judgment on all counts based on the position that there was probable cause to support the issuance of the arrest warrant that led to petitioner's arrest. Alternatively, the Respondents argued that they were nevertheless entitled to qualified immunity. On October 22, 2003, the District Court issued an Opinion and Order granting the Respondents summary judgment. *Forest v. Pawtucket*, 290 F. Supp. 2d 215 (D.RI. 2003), Petitioners' Appendix (hereinafter "P.App."), at 13a. The District Court specifically found that not only were the respondents entitled to qualified immunity from the instant suit but that there was nevertheless probable cause to support petitioner's arrest. Petitioners thereafter dismissed the outstanding claims against the Monella family pursuant to Rule 41(a) of the Federal Court Rules of Civil Procedure and final judgment in favor of the Respondents was entered.

Petitioner filed a limited appeal to the First Circuit from the entry of judgment on Count I, the § 1983 claim for violation of petitioner's Fourth Amendment rights. On July 28, 2004, the First Circuit issued a written Opinion affirming the judgment of the District Court and concluding that the officers were entitled to qualified immunity because the undisputed evidence supported a finding of probable cause. *Forest v. Pawtucket*, 377 F.3d 52 (1st Cir. 2004), P.App. at 1a. On August 31, 2004, petitioner's Petition for Rehearing and suggestion for rehearing en banc before the First Circuit were denied. P.App. at 45a. On November 29, 2004, the instant Petition for Writ of Certiorari was filed with this Court.

STATEMENT OF THE FACTS

On January 24, 2000, at 5:00 P.M., Jeffrey, a 15-year-old student at Tolman High School in Pawtucket, walked into the Pawtucket Police station accompanied by his mother, Gail Montella, to report a sexual assault. Jeffrey reported that he was in his Life Skills class at Tolman High School when petitioner, his teacher, expressed interest in Jeffrey's new fleece jacket. Jeffrey complained that petitioner, while pretending to feel the fleece material at the bottom of the jacket, first rubbed Jeffrey's penis under the jacket, through his pants, and then moved his hand to feel the fleece. Jeffrey, being embarrassed and upset by this activity, asked to leave the room. According to Jeffrey, the petitioner refused to allow Jeffrey to leave the classroom. However, Jeffrey left anyway and went directly to see the school principal, Mr. Rousselle. He related what happened to Principal Rousselle orally and then, at the request of Mr. Rousselle, in writing. Jeffrey Montella's Tolman High School Witness Statement (January 24, 2000), 1st Cir. Appendix (hereinafter "1st Cir. App.") at 91. Deposition of Scott Feeley, November 21-22, 2002 (hereinafter "Feeley Deposition"), at 83 (1st Cir. App. at 140).

As reflected by the diagram provided to the respondent officers, Jeffrey informed the officers that his class consisted of five (5) students. *See* 1st Cir. App. at 142. According to this diagram, only two (2) of these students were facing Jeffrey at the time of the assault while the other students and the teacher's aide were either next to or behind Jeffrey. *Id.*

Jeffrey also informed the respondent officers that the petitioner had touched him on other occasions within the prior year in a manner that made Jeffrey uncomfortable. Jeffrey specifically reported that petitioner had rubbed his

back, shoulders and upper thigh. At the time of these other incidents, Jeffrey reported them to his mother who dismissed the contact as innocent touching.

The respondent officers also interviewed Jeffrey's mother, Mrs. Montella, who confirmed that her son had previously complained to her about petitioner rubbing Jeffrey's shoulders and thigh. She explained, however, that when he first complained she did not believe it be significant because she assumed petitioner was simply being nice to her son. She also assumed that his attention to her son was not out of the ordinary because petitioner had been generous to her entire family, giving them a large bag of gifts at Christmas and a gift certificate to a grocery store. Mrs. Montella also informed the officers that she believed her son's current complaint about petitioner because petitioner had always been nice to her family and she saw no reason for her son to lie.

Mrs. Montella also advised the detectives that Jeffrey had attention deficit, hyperactivity disorder (ADHD) and was on Ritalin. Mrs. Montella, however, further informed them that her son was not mentally incapacitated. Feeley Deposition, at 83 (1st Cir. App. at 117). The detectives, in fact, did not detect any apparent signs of Jeffrey having behavioral or intellectual difficulties. *Id.* at 85 (1st Cir. App. at 118). Rather, they found Jeffrey to be fairly intelligent and credible. *Id.* at 69 & 85 (1st Cir. App. at 114 & 118).

Detective Feeley thereafter contacted Principal Rousselle at his home. Principal Rousselle verified that Jeffrey had come into his office that day, made the same complaint and had provided a hand-written statement. *Id.* at 58-59 (1st Cir. App. at 117). Principal Rousselle also provided the detective

with petitioner's home number. At approximately 8:30 P.M., the detectives telephoned petitioner at his house in Seekonk, Massachusetts and left a message on his answering machine. They tried again at 9:10 P.M. and this time the petitioner answered the phone and agreed to come in at 10:00 P.M. to speak to the detectives concerning the allegation. The detectives prepared an affidavit for an arrest warrant for second degree sexual assault to serve on petitioner when he arrived for the 10:00 P.M. interview. The warrant was approved and signed by the bail commissioner. At 10:00 P.M., petitioner called and said that he was not going to come in without his attorney whom he could not reach at this time. He agreed to come in the following morning.

On January 26, 2000, petitioner came into the Pawtucket police station with his attorney where he was placed under arrest. Pursuant to his attorney's request, petitioner was not questioned and did not provide the officers with a statement. Thereafter, on April 19, 2000, the Rhode Island Department of the Attorney General declined to bring a formal charge and prosecute the case. 1st Cir. App. at 96. As a result of the decision by the Attorney General's Department, the criminal charges against petitioner were subsequently dismissed. Petitioners thereafter brought the instant suit against the investigating and arresting officers as well as the City and the Police Chief.

ARGUMENT

I. There Was Probable Cause To Arrest the Petitioner

Petitioner first seeks a petition to review the First Circuit's determination that the officers were reasonable in their reliance on Jeffrey's complaint in support of the probable cause determination. Petitioners specifically argue that Jeffrey's complaint was "facially unbelievable" such that it not only failed to support the issuance of the arrest warrant but that it required the officers to conduct additional investigation into the charges. Respondents submit that the record fails to support petitioners' allegation that the victim's complaint was facially unreliable. Rather, as found by the First Circuit, the information provided to the police officers supported their conclusion that they had probable cause to arrest and charge petitioner.

The First Circuit affirmed the entry of judgment in favor of respondents based on a finding of qualified immunity. "[G]overnment officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). As correctly noted by the First Circuit, the first threshold inquiry in qualified immunity claims is whether the facts show that an officer's conduct violated a statutory or constitutional right. *Forest*, 377 F.3d at 56 (P.App. at 7a). In the instant case, petitioner claims that his Fourth Amendment rights were violated. In order to succeed on this claim, petitioner must demonstrate that it was clear at the time of the arrest that there was no probable cause for such an arrest. *Valente v. Wallace*, 332 F.3d 30, 32 (1st Cir. 2003)

citing Beck v. Ohio, 379 U.S. 89, 91 (1964). "[P]robable cause exists when facts and circumstances within the arresting officer's knowledge and of which he has reasonably trustworthy information are sufficient to warrant a man of reasonable caution and prudence in the belief that the respondent is committing or has committed a crime." *Floyd v. Farrell*, 765 F.2d 1, 5 (1st Cir. 1985). *See also Beck*, 379 U.S. at 96. In support of a probable cause determination, police officers can justifiably rely upon the credible complaint by a victim. *B.C.R. Transport Co., Inc.*, 727 F.2d at 10.[3]

In the instant case, Petitioners do not challenge these well-settled rules. Rather, Petitioners attack the credibility determination of the officers and allege that the officers were unreasonable in their determination that Jeffrey presented a credible complaint. Petitioners thus seek a writ of certiorari to review the First Circuit's application of the undisputed facts to well-settled rules of law. In addition to the fact that a challenge to a lower court's application of well-settled rules of law is not a proper basis for issuance of a writ of certiorari, Sup. Ct. R. 10, respondents submit that the First Circuit nevertheless did not misapply these rules.

Petitioners' main challenge to the First Circuit's decision is that it was unreasonable for the officers to accept Jeffrey's complaint as credible because Jeffrey allegedly informed the officers that he was grabbed and fondled in front of and while

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3. As noted by the District Court, this is likewise the rule in other Circuits. *Forest*, 290 F. Supp. 2d at 227 (P.App. at 27a) *citing Singer v. Fulton County Sheriff*, 63 F.3d 110, 119 (2d Cir. 1995); *Sharrar v. Felsing*, 128 F.3d 810, 818 (3d Cir. 1997); *Tangwell v. Stuckey*, 135 F.3d 510 (7th Cir. 1998); *Clay v. Conlee*, 815 F.2d 1164, 1168-69 (8th Cir. 1987); *Goodson v. City of Atlanta*, 763 F.2d 1381, 1386 (11th Cir. 1985).

facing a class of students and support staff. Petitioners maintain that this claim, on its face, is implausible. However, as noted by the First Circuit, according to the diagram provided by Jeffrey to the officers during the January 24, 2000, interview, it was not so obvious that these other students could have seen the alleged assault. In particular, the diagram demonstrates that there were only five (5) students in the class room at the time of the alleged touching. 1st Cir. App. at 142. This diagram also reflects that the teacher's aide (the "support staff") and all but two (2) of these students were either next to or behind Jeffrey at the time of the alleged touching. Thus, based on the diagram's depiction of the location of Jeffrey and of the other students at the time of the alleged assault, it did not necessarily follow that the other students could have witnessed the touching.

Petitioners nevertheless assign error to the First Circuit's reliance on the diagram in support of this conclusion. Petitioners argue that the First Circuit should have reviewed Jeffrey's diagram *only* to confirm that others were in the classroom at the time of the alleged assault. However, petitioner's main challenge to Jeffrey's credibility was the position that it was implausible that petitioner would fondle a student in open view of these students. Thus, the students' questionable ability to actually see the alleged touching was highly relevant to the First Circuit's evaluation of the reasonableness of the officer's actions.

In challenging the credibility determination of the officers, petitioners also ignore the sequence of events that Jeffrey described as leading to the alleged unlawful touching. That is, according to Jeffrey, petitioner questioned him about a new fleece jacket and reached out as if to feel the texture of the jacket. According to Jeffery's complaint, it was while

petitioner was pretending to feel the fleece that he slid his hand under the jacket and unlawfully touched Jeffrey. It is entirely plausible that an individual would use the ruse of touching the jacket to cover an unlawful touching. In fact, it is entirely reasonable to believe that the fleece jacket acted as a cover for the unlawful touching. Therefore, the fact that Jeffrey claimed that the incident occurred in the classroom does not demonstrate or even call into question the reliability of the complaint.[4]

Jeffrey's actions immediately after the incident also supported his claim against petitioner. In particular, Jeffrey immediately left the classroom (without permission) and reported the incident, first orally and then in writing, to Principal Rouselle. In addition, upon returning home that evening, Jeffrey immediately told his mother about the incident. The respondent officers confirmed these actions by interviewing Principal Rouselle and Mrs. Montella before requesting an arrest warrant.

Respondents thus submit that the police officers were reasonable in their reliance upon the credible complaint of the victim to support their application for the arrest warrant. As a matter of law, the information available to the officers at the time of the arrest was sufficient to form probable cause to support the arrest. Accordingly, the First Circuit did not misapply well-settled rules of law in affirming the grant of qualified immunity in favor of the respondents. Consequently, the instant Petition for Writ of Certiorari should be denied.

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4. In fact, the opposite would be true. That is, if Jeffrey were intentionally seeking to mislead the detectives and falsely accuse petitioner, why would he place himself within a classroom of students, all potential witnesses to the alleged event?

II. The Respondents Were Not Required To Conduct Additional Investigation Into The Charges Against Petitioner

In their second and fourth presented questions for review by way of Writ of Certiorari, petitioners challenge the First Circuit's conclusion that the respondent officers were not required to conduct additional investigation after determining there was probable cause to support petitioner's arrest. Despite the well-settled case law that police officers are not obligated to continue investigating once information to support a finding of probable cause is collected, *Kelley*, 149 F.3d at 646,[5] petitioners seek the instant writ of certiorari on the basis that the presence of any witnesses to an alleged crime imposes a constitutional duty on the part of the officers to question these potential witnesses. Petitioners also argue that the First Circuit erred in distinguishing the Seventh Circuit case of *Bevier v. Hucal*, 806 F.2d 123 (7th Cir. 1986), from the instant case.

Respondents submit in the first instance that Petitioners' reliance upon *Bevier* for the position that police officers must pursue "readily available" evidence prior to making a determination as to probable cause is misplaced. In *Bevier* the Seventh Circuit was actually faced with a situation where the police officers lacked any evidence to support a finding of probable cause on a key element of the crime being charged. *Id.* at 128. Thus, although finding that the *Bevier* respondents were required to conduct additional investigation, the Court expressly noted that police officers who have established probable cause on every element of

5. *See also Brodnicki v. City of Omaha*, 75 F.3d 1261, 1264 (8th Cir. 1996) (Noting that officers are not required to conduct mini-trials before arrest).

the crime need not continue their investigation. *Id.* Quite simply, the Seventh Circuit concluded that a reasonable officer standing in the shoes of the *Bevier* respondents, and lacking evidence regarding an element of the criminal charge, would have explored the readily available information. *Id.* at 128-29.

The instant case is clearly distinguishable primarily because there is absolutely no allegation that any element of the criminal charge of second degree sexual assault was lacking. Rather, the sole basis for petitioner's challenge to the probable cause determination is the position that the victim's complaint was not credible. As noted, *infra*, it was reasonable for the officers to believe that the credible complaint of Jeffrey established probable cause to support the arrest. Just as the *Bevier* Court specifically recognized, because the officers in the instant case had "established [probable] cause on every element of the crime" the officers were under no obligation to pursue additional evidence. *Id.* at 128.

Respondents thus submit that there is no basis for petitioners' claim that the respondent officers were constitutionally required to conduct additional investigation by interviewing witnesses after they had formulated probable cause to support the arrest. The First Circuit properly applied the well-settled rules of law regarding the officers' constitutional obligations. Petitioners' Petition for Writ of Certiorari to review the First Circuit's holding on this issue should accordingly be denied.

III. The Victim's Status As A Special Needs Student Does Not Affect The Officers' Credibility Determination

Petitioner also presents the question of whether it was improper for the First Circuit "to develop and substitute its own conclusion that an adolescent student's learning disability and medication" did not affect the adolescent's credibility. First, respondents submit that petitioner has mischaracterized the First Circuit's holding. The First Circuit actually held that "there is *no evidence* that Montella's condition ... and his prescription ... had any effect on his credibility." *Forest*, 377 F.3d at 57 (P.App. at 9a) (emphasis added). This holding was in response to petitioners' unsupported claim that the fact that Jeffrey was a "special needs student" on Ritalin should have cast doubt on the reliability of his complaint. Accordingly, because the First Circuit did not in the first instance "substitute" its own conclusion as to the effect such a disability would have on the complainant's credibility, the Petition for Writ of Certiorari should be denied.

In addition, despite repeated reference to Jeffrey's "special needs" status, petitioners provided no evidence to support a finding that such a condition affected his intellectual capacity or, more importantly, his credibility. Rather, as noted, Jeffrey was placed in the special needs class because he suffered from ADHD. Before the District Court and again on appeal, petitioners leave it to pure speculation that Jeffrey's ADHD condition called into question Jeffrey's veracity. The undisputed evidence, however, defeats this position. In particular, Mrs. Montella specifically informed the officers that although Jeffrey suffered from ADHD, he was not mentally incapacitated. Feeley's Deposition, at 83 (1st Cir. App. at 117). The officers also made the independent

determination that Jeffrey came across as fairly intelligent and credible. *Id.* There was nothing about his presentation to the officers that would lead them to believe that his ADHD condition would call his credibility into question.

In addition, even if hindsight could be used to challenge the officer's credibility determination,[6] petitioners themselves have failed to offer any evidence by way of medical testimony or otherwise of the effect of ADHD and/or Ritalin, or evidence of the way that the condition specifically affected Jeffrey, to support the allegation that the officers should have questioned Jeffrey's veracity. Moreover, the claim that the officers should have questioned Jeffrey's veracity because he participated in the special needs program at the school is founded on baseless stereotyping that the officers properly rejected in place of their own judgment as to Jeffrey's credibility. *White v. Town of Marblehead*, 989 F. Supp. 345, 350 (D. Mass. 1997). Respondents thus submit that petitioners have offered no competent evidence to support the position that Jeffrey's ADHD condition should have led the officers to question his veracity. The Petition for Writ of Certiorari to review this issue should accordingly be denied.

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6. All probable cause determinations are made with the information available to the officers and relied upon by the officers at the time of the arrest. Twenty-twenty hindsight cannot be used to defeat a police officer's initial determination that probable cause existed. *Beck*, 379 U.S. at 91 (probable cause exists when, "at th[e] moment [the arrest is made,] the facts and circumstances within [the officers'] knowledge and of which they had reasonably trustworthy information were sufficient to warrant a prudent [person] in believing that the [individual] had committed or was committing an offense"); *Roche v. John Hancock Mut. Life Ins. Co.*, 81 F.3d 249, 254 (1st Cir. 1996) ("The inquiry into the existence vel non of probable cause is not to be undertaken from the perspective of hindsight but from the perspective of a hypothetical 'reasonable man' standing in the reporting person's shoes at the time when that person acted").

IV. The Affidavit Submitted In Support Of The Application For An Arrest Warrant Was Not Deficient

In addition to attacking the respondents' independent credibility determination, petitioners also seek a Petition for Writ to review whether respondents are liable for alleged deficiencies in the affidavit submitted in support of the arrest warrant. Petitioners specifically claim that the respondents' omission of the fact that the alleged touching took place in a classroom of students violated petitioners' constitutional rights because such information would have defeated the probable cause determination. Petitioners claim that the First Circuit erred in its "holding" that it was possible that these other students would not have seen the alleged touching and thus the omission of such facts was "harmless."

Respondents first object to petitioners' characterization of the First Circuit's holding. Rather than hold that the omission of such information from the arrest warrant was "harmless", the First Circuit actually held that the omission of such information was not *misleading* and thus there was no basis for the claim that the officers acted with reckless disregard for the petitioners' rights. *Forest*, 377 F.3d at 58 (P.App. at 12a).

This holding is entirely consistent with the record on appeal as well as well settled case law. In particular, in order to succeed on a claim for violation of the Fourth Amendment stemming from an alleged omission in an affidavit, petitioners must establish that "'a false statement knowingly and intentionally, or with reckless disregard for the truth, was [omitted] by the affiant in a warrant affidavit . . .'" *Aponte Matos v. Toledo Davila*, 135 F.3d 182, 187 (1st Cir. 1998) (citation omitted). Petitioners must also demonstrate that the

omitted information was necessary to the finding of probable cause. *Id. United States v. Edwards*, 602 F.2d 458, 465 (1st Cir. 1979) *quoting Franks v. Delaware*, 438 U.S. 154, 155-56 (1978). In the instant case, the record is absolutely void of any evidence to support the conclusion that the respondents "knowingly and intentionally" misled the Justice of the Peace in applying for the arrest warrant. Rather, the only evidence before the Court was Detective Feeley's testimony that he does not put his entire case into a warrant application but only includes what is necessary to cover the elements of the crime. Feeley's Deposition, at 14 & 19 (1st Cir. App. 123 & 124). Detective Feeley also testified that he would never leave something out of an affidavit just to get a magistrate to sign an arrest warrant. *Id.* Petitioners can offer no evidence to contradict these representations. In fact, as more fully discussed above, the undisputed evidence supports the conclusion that the respondents reasonably found Jeffrey to be a credible victim. As such, there is no support for the accusation that they knowingly and deliberately, or with reckless disregard for the truth, omitted facts from the warrant affidavit.

In addition, the alleged omitted material is immaterial to the probable cause determination. As more fully discussed *infra*, the fact that Jeffrey claimed the incident took place in class with five (5) students, only two (2) of whom were sitting in their seats across from him, does not defeat the credible complaint of sexual assault nor does it defeat any other element of the crime of sexual assault. Rather, as described by Jeffrey, the petitioner took steps to cover his alleged inappropriate touching by pretending to be touching the fleece jacket. In addition, it simply does not make any sense that if Jeffrey were seeking to falsify a complaint against his teacher, he would place himself in the presence of other students.

Consequently, absent evidence that the respondents knowingly and deliberately omitted material facts in their warrant application, petitioner cannot succeed on the claim that his Fourth Amendment rights were violated. The Petition for Writ of Certiorari to review this issue should accordingly be denied.

CONCLUSION

For the reasons cited herein, Respondents respectfully request that this Honorable Court deny the Petition for Writ of Certiorari.

Respectfully submitted,

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